



Town of Jericho
Development Review Board

Town of Jericho
Development Review Board
Jericho Town Hall
Thursday, October 8, 2015

Minutes

Members Present: Barry King, Joe Flynn, Jeff York, Christopher West
Members Absent: Stephanie Hamilton
Guests: Michelle Patrick (Zoning Administrator), Amy Richardson (Secretary)
Public: Trafton Crandall, Justin Willis, Merry Baker, Jeff Baker, Dean Grover, Diane Superneau, Robert Superneau, Brian Appleberry, Jean Burke, Robert Gabaree, Claire Gabaree, Betty Keefe, Bill Keefe, Wendell Farrell, Tim Aube, Holly Aube, Patrick Burke

MEETING AGENDA

- A request to the DRB by Jeffrey and Merry Baker for review of a 3-lot subdivision at 111 Plains Road. This parcel is located in the Rural Residential Zoning District.
- A request to the DRB by Tim and Holly Aube for a sketch plan review of a minor subdivision at 18 Theresa's Lane. One new lot is proposed, in addition to two boundary adjustments. This parcel is located in the Rural Residential Zoning District.
- A request to the DRB by Phylvin Acres, LLC for a sketch plan review of a major subdivision at 581 Browns Trace Road. This parcel is located in the Rural Residential, Agriculture, and Forestry Zoning Districts.
- Minutes from August 27, 2015.
- Minutes from September 24, 2015.

Mr. King called the public meeting to order at 7:01 p.m. He read the warning. He asked the members to disclose any conflicts of interest. There was none. He explained that the rules for conflicts of interest and ex parte communication are to disclose, which is being done. Mr. King read the Interested Persons Law. The public was sworn in at 7:06 p.m.

**1. A request Jeffrey and Merry Baker for review of a 3-lot subdivision at 111 Plains Road.
This parcel is located in the Rural Residential Zoning District.**

Applicant's Presentation

Mr. Willis said the Baker's currently have about 11 acres at 111 Plains Road. He stated they are proposing to subdivide into three residential lots from the existing lot, noting two of the lots would be defined as back lots. He said they are proposing onsite wastewater and drilled water supplies. Mr. Willis said the water supplies and wastewater systems are sited on the property using maximum isolation distances using the environmental protection rules. He said they don't really have bedrock predominantly in the area.

Mr. Willis said the state issued a wastewater and water supply permit for the property. He said the bulk of the property, everything below the bank where you see a wetland and wetland buffer zone, is all well-drained coarse sands and gravels. He stated they are proposing a shared driveway and they prepared a maintenance agreement. Mr. Willis said they have a stormwater plan prepared by Mr. Crandall, which addresses the ponding that occurs at the intersection of the proposed driveway and Plains Road, noting there is somewhat of a sag in the land; when the ground freezes and thaws in the spring it ponds, so he's addressed that and he can answer any questions about that.

Mr. Willis said the fire department has reviewed the proposed road and endorsed it, noting there should be a letter to that effect. He said another question was asked about the vegetation along the boundary that adjoins Burke's; saying after speaking with the Baker's they felt it wasn't necessary to put any protections in there, it is pretty much vegetation that follows the property line and it wouldn't be appropriate to cut most of that anyways. He said the State Wetland Ecologist has reviewed the site; she has reviewed and endorsed the plan, noting there is a letter to that effect. Mr. Willis stated there is a letter from the school as well, in terms of impact on the school district, which they indicated there aren't any.

Mr. Crandall stated he is an Engineer and was retained to design the shared driveway. He asked Ms. Patrick to switch to the next plan. He said they have a driveway section meeting the DPW requirements and it meets the state standards. Mr. Crandall said the profile shows the slopes and construction of the road along the drive, noting that all the slopes are less than 5%. He stated it is a very flat site; flat, open field. He said for those reasons, in terms of stormwater, there are going to be greater than 0.5 acres, about 0.6 acres of new impervious area.

Mr. Crandall stated that under the Town of Jericho standards stormwater plan it is requested that they meet the water quality volume and recharge volume standards of the State of Vermont Stormwater Plan. He said because of the nature of the site, it is very flat; it will be sheet flow runoff in most all cases. He said the automatic credits you get for taking into account the site characteristics will meet all those criteria, so they don't have to do anything to meet the stormwater requirements. Mr. Crandall asked to go back to the site plan. He stated the fire department did ask them to provide an adequate turnaround, hammerhead. He said they have a hammerhead at the intersection of Lot 2 and Lot 3, it is 90' and 40' or more, the radiuses are 40', which will allow large vehicles to turn around without any problem.

Mr. Crandall stated it is a 20' width driveway until you get past Lot 1, then for two lots shared it is 15', meeting the DPW standards until you get to the individual drives and the individual drives will allow for parking and turnaround. Mr. King said when you are talking about the DPW standards you are talking about the Town. Mr. Crandall agreed, saying there are several overlapping standards that the fire department for three or more requires 20' width, which they have up through Lot 1; for two the fire department requires 14' width, but the DPW. Mr. King asked what the DPW is. Mr. Crandall stated the Department of Public Works or the Public Works Specifications. Mr. King said we don't have a Department of Public Works per say, but you are referring to what we refer to as the Public Works Specifications. Mr. Crandall agreed, saying for a three-lot with 100' or longer driveway they call for a 15', which is why they have a 15' width until they get to the hammerhead, then it is individual 12' driveways for each of the lots.

Board Questions

Mr. Flynn said in regards to the driveway, entrance road and so on, he understands what you are saying about the finished grade and stormwater. He expressed concern about the low point coming in, right off of Plains Road, and you are filling it in order to try to alleviate some of that low point puddling. He asked if we are just pushing the water to both sides and letting it stagnate there. Mr. Crandall stated they provided an additional easement for drainage; they have provided for a culvert because there is very slight relief to go in this direction along Plains Road. He said they put in a culvert and provided a slight depression to allow for some minor storage of stormwater at that entrance.

Mr. Flynn clarified they are building the road up about 1' there. He asked if it will get you above whatever is going to sit there. Mr. Crandall answered yes. Mr. Flynn asked if there is a certain topography when it will start heading down Plains Road, noting that flat sites are awful for stormwater. Mr. Crandall said the DRB should have a copy of the driveway road design. He said it shows the culvert with a little bit of ditching on either side of the entrance and behind here there is essentially an extended ditch.

Mr. King said he believes he understands that the road surface is at 545. Mr. Crandall agreed. Mr. King said he sees that you have the driveway humped to 546, a foot higher. He said isn't that inherently against the rules; he thought it had to go downhill from the road surface at least at the threshold. Mr. Crandall said within a 50' and they do meet the Agency of Transportation (AOT) standards for that 50' entrance, then there is a slight rise after that - he does show that on the profile. Mr. King said he has the profile and it doesn't show anything in the first 50'. Mr. Crandall indicated the entrance discussing the topography.

Mr. King clarified that is the centerline profile. Mr. Crandall agreed. Mr. King asked Mr. Crandall to help him understand what the contour lines mean, noting what he sees in the first 100' of the driveway. Mr. Crandall explained they don't have a spot elevation at the entrance on this plan, but the elevation is on the cross-section. He said at the edge of the driveway you are talking about 546.3, noting the actual elevation numbers are shown here on the bottom of the profile. He stated you come down to 546.0 at 50' and then it is essentially level up to 100'. Mr. Crandall said from 50' in from the entrance you have dropped from 546.3 to 546.0. He stated when it is this flat it is difficult to see the contours. He said these are the exact elevations of the crown at the center line.

Mr. Flynn asked Ms. Patrick driveway plan back up and zoom in on the entranceway. Mr. Crandall said there is a slight dip here as the contours approach each other and slight rise as you get to the edge of the road, they spread apart. He said 0.0 is the initial point on the profile, which is 546.3. He stated the inverted culvert is at 543.5 and to get down past the, to begin drainage you have existing ground here of 545, it will have to rise up in the culvert to begin to drain out, but it will not overtop the road and it won't overtop the culvert. He said there was some concern because essentially the grade does go from this property in this direction, it is 545 to 546; that was a concern that this is a low spot, so there was some collection there and they wanted somewhere for it to go.

Mr. Flynn asked what about along the rest of the driveway, saying we aren't seeing any ditching detail. He asked if they are going to use sheet drainage conditions and infiltration. Mr. Crandall agreed, saying it is very sandy soil, grass, vegetation, and infiltration and that meets the state stormwater criteria. Mr. Flynn said that is pretty inexpensive stormwater treatment. Mr. Crandall said for a site that is so flat that is what meets the standards. He stated this essentially shows the area

of the hammerhead turnaround that will meet the fire department requirements. Mr. Flynn told Mr. Willis that on the plat there is a right of way that refers to note 8, that should be note 9.

Mr. King asked Mr. Willis if there is some well yield information. Mr. Willis stated he has well yield requirements on his detail sheet, but he didn't provide data for surrounding wells, noting he did look at them recently. He said Joe Jordan recently drilled a well and they are all very, very good wells, saying they are all 30 gallons a minute or something like that. He stated the upper left is just the water supply calculations. Mr. Willis said that is what they are prescribing for the house, that is not stating what the wells are in that area; saying the wells in that area are predominantly really good wells. He said he can provide some information if you want. Mr. King said if we don't have it, we don't have it. Mr. West noted that it says in the staff notes it is detailed on the plan. Mr. King said that was what he was wondering about. He said there is information there, but it isn't information on the hydrology, it is recapitulating what the yield has to be.

Mr. West said there was some information in the application about an existing hedgerow along the Burke property line. He asked what the plans are with it and if there has been any discussion with the neighbor about it. Mr. Willis said he mentioned in the introduction that they felt it wasn't necessary to protect it. He said the Burke's haven't conveyed to them any request in that regard. He stated it follows the property line, so there isn't going to be any benefit to it. He said cutting on a property line isn't allowed if there are boundary trees. Mr. Flynn agreed that you really can't do it, saying he mentioned in his opening that they were going to leave them alone. Mr. Willis said the intent is to leave them alone. He said the Baker's will convey that to anybody that wants to build on it, saying there is nothing to gain by cutting that. He said it serves as privacy now.

Mr. Flynn asked about the view from McCarthy's and Catella's, whether they will be able to see these new houses. Mr. Willis agreed that they will be able to see each other. He said one of the concerns from a neighbor was the view of Mt. Mansfield, which people are accustomed to seeing in that direction. He stated now they will see houses in the foreground. Ms. Patrick said regarding the hedgerow, she thinks there was a concern and a neighbor did come in to ask about maintaining the hedgerow on the side that is going to abut this new subdivision; making sure that it stays a healthy hedgerow the way it has been growing. She said there was some concern about that, as opposed to leaving it in one piece. Mr. Willis stated he doesn't know the difference between a hedgerow and forest; this is trees, not shrubs and the intent is to go with the status quo, leave it the way that it is because it looks nice.

Mr. York said he has a question in terms of the septic easement between Lot 1 and Lot 2; why did you go to the difficulty of doing an easement instead of deeding the land onto Lot 1. Mr. Willis responded that it is a nice lot configuration. He said he made it a point to make sure the wastewater system was entirely on Lot 1, which was the goal. He said it was primarily to keep Lot 1 at 3 acres; they wanted to have Lot 1 at the minimum lot size and try to retain a larger lot, which the Baker's intend to build on with Lot 3. Mr. Willis said they worked their way around the corner. He noted it is not an area that is going to be used because of the state requirements. He said in reality it will never get used. Mr. York said at least that is the purpose.

Mr. King asked Mr. Willis to speak to the wetland and the buffer zones and how that relates to our overlay district. Mr. Willis responded that most of the wetlands on the state mapping system, regardless of what the maps say, the wetland classification isn't determined until they field check it. He said currently the wetlands map is just an advisory map, which hasn't been deemed a Class II

Wetland. He said to him it was obvious, though he is not a wetlands expert. Mr. Willis said after visiting with the State Wetland Ecologist, she looked at it and said without a doubt it is a Class II Wetland, particularly because of its size, anything over 0.5 acre defaults to Class II. He said because it is rather thick and difficult to terrain down there, she allowed the delineation to be established using ToSlope, which is established using LiDAR topography. He stated as a precaution, she said without delineation she wanted an extra 10', so you can see on the plan there is an extra 10' added to the buffer.

Mr. Willis said that is the main one; the wetland on the left, they walked that and they established that based on an elevation. He said he sent her this plan, which she reviewed and she put it in her file. He stated the only thing that could change this is if somebody wanted to get closer to that bank and they would have to have a professional delineation done, that is the stipulation. Mr. Willis said it doesn't show up on any overlays, there are a lot of those. He said it is either hydric soil or wetland advisory layer.

Ms. Patrick asked him to speak to the width at the edge of the driveway. She said in the regulations we allow two lots that don't have frontage to be built on a private drive, but Lot 1 doesn't have the necessary width. She stated the minimum road frontage in the Rural Residential District is 200' and this is 150'. Mr. Willis stated the very first thing he did was come see Jen and she deemed it pre-existing non-conforming frontage; saying that wouldn't preclude doing the two back lots. Ms. Patrick said she included that in the report.

Public Comment

Mr. King stated the letters from the school and the fire department are on file. He explained the public comment process. Ms. Burke stated she is next door and expressed her concern about the rise of the driveway. She discussed how the water pools in their yard near the driveway. She said she would be interested in hearing more about the culvert and the effects of the water being moved from there so that it doesn't end up staying on their property.

Mr. Burke said recently the Town of Jericho added a considerable amount of fill that has raised the road, which in turn lowered his property, which makes it more of a rain collector. He asked if we do something like this is the Town of Jericho going to daylight that water coming down somehow. He stated he doesn't want to end up with 10,000 gallons of water in his front yard there; it is going to make things interesting. Mr. Burke said there aren't culverts or ditching on that section of Plains Road at this time.

Mr. King combined the two comments, saying we talked a little bit about the stormwater design and where the stormwater is intended to go in this design. He said the concern is that there is, with the height of the land on that same side of the road and the height of the present road surface. He asked if the contours shown in the road are the present status.

Mr. Crandall responded that is the current conditions of the road surface, noting they did do some surveying on the site. He said, as Mr. and Mrs. Burke has said, there are no ditches along Plains Road, so that hampers their ability to provide any additional drainage than what they are showing. He said he did want to put that culvert in so that if we had some water collecting it would not pool up behind the road and go over onto the Burke's property; it will equalize that runoff and it will come through the culvert.

Mr. Crandall explained that when it meets the 545 contour, it will follow down Plains Road; there aren't any ditches there, but it will head in that direction, downhill. He said they do have to build the road up somewhat, so that there is a little bit of drainage; so that it is not a wet road; and so that it will work properly. He said they have provided a little bit of a basin; they are showing that they are going to carve out a little bit of a basin here which will accept some more drainage and bring it toward the culvert. He said that is their intent and it would go in this direction.

Mr. Flynn asked if in the end you are, with a smaller sized culvert and a little depression there, backing up more water than what traditionally backs up there. Mr. Crandall said he doesn't believe so, it is a natural basin right in that area. Mr. Flynn asked if he did any runoff calculations. Mr. Crandall said he didn't do any runoff calculations. He said when it is frozen ground it is impervious; when you take advantage of the sand that is there it infiltrates. He said it could be subject to some minor flooding in the spring runoff when the ground is frozen.

Mr. King asked about the current vegetation or state of the surface in the area of the first 200'. Mr. Crandall said it is all hayfield or mowed grass. Mr. King asked how it is maintained now. Mr. Baker stated it is hayed once or twice a year. Mr. King asked what they anticipate the maintenance to be, whether there is a maintenance agreement regarding what would be done with the right of way and the adjacent land. He said he is just trying to establish whether it is likely that there is an impact, changing the infiltration that will change the present state of affairs, either for the better or for the worse. Mr. Baker said it shouldn't change, the grass will continue to be cut.

Ms. Burke reiterated that last week Jericho put in a significant amount of dirt on the road and raised it up, so this may not be accurate anymore. Mr. West said Mr. Burke did ask if the Town was going to do anything. Mr. King agreed, saying this gets back to the question raised. He stated the Town does road maintenance to change the height of the road, saying it sounds like they have recently done that. He asked how that affects the design; if that is the case, what will they do. Mr. Crandall said he doesn't know that there is really anything they can do, except at the entrance it will meet the present height of the road. He said in terms of drainage, there is nothing they can really change unless the Town was going to put a culvert underneath of Plains Road.

Mr. King said he is not sure he understands the answer; you have profiles that assume the height of the threshold is 545. Mr. Crandall agreed, saying if they have increased the elevations at all, where it meets the shoulder of the road, it will be a slightly greater reverse slope down to the first 25'. He stated that would still meet all of the AOT regulations, in fact it would be a little more of a slope away from the road, which is a desirable thing. Mr. King clarified that if there has been a change in the road height, what they will do is take it in that first 25' to 50' raise the center line profile and get back to their station at 50' and go on as planned. Mr. Crandall said that is correct. He commented that with a gravel road, that elevation changes all the time, discussing examples.

Mr. King said regarding the question about the responsibility for the road maintenance; it is independent of what the applicant's responsibility is. He asked Ms. Patrick if she knows what the plan is, saying the Road Foreman was aware of this because there was mention about a discussion with the Road Foreman about the driveway, correct. Ms. Patrick said there was not on this application. Mr. King asked if there is any other information about this access. Ms. Patrick stated she has no comment from the Road Foreman about this access, but she could have him review it to determine how the maintenance to the road could affect it.

Mr. King said there will need to be the curb cut authorization, or road access permit. Ms. Patrick agreed that would be a condition, saying that has not happened yet. Mr. King said he will look at this plan, noting his concerns are more about the widths and the site lines, but it ties into what we were talking about. He said that is the best answer that we have about the division of labor between the responsibilities of the Town and the road crew versus the responsibility of the applicant.

Mr. King closed the hearing. He stated the decision would be issued within 45 days, noting it is usually sooner.

2. A request to the DRB by Tim and Holly Aube for a sketch plan review of a minor subdivision at 18 Theresa's Lane. One new lot is proposed, in addition to two boundary adjustments. This parcel is located in the Rural Residential Zoning District.

Applicant's Presentation

Ms. Patrick stated they have one driveway and she took a photo of it. Ms. Aube indicated the location of their residence on the drawing. She said her father passed away and they want to keep some of this land, saying they would like to add 8 acres to their 1+ acre property. She indicated the location of her brother's home, saying he would like to add 1 acre to the 1 acre he already has. Ms. Aube indicated the location of her sister's home, saying she would like to make a new building lot which is 6.7 acres and sell their house. She said the reason they chose that location is they want to abut the road. She stated the rest of the land will be sold. Mr. Aube said it is basically a boundary adjustment.

Board Questions

Mr. Flynn clarified they are creating a lot. Ms. Aube agreed, indicating the location. Mr. West asked if the lot is a conforming lot. Ms. Patrick stated two of the lots would be conforming. She said because this is Rural Residential Zoning District, the minimum lot size is 3 acres. Mr. West clarified there would be one non-conforming lot, but it would not be making it more non-conforming. He said the lot that is being created, although no extra lot is being created, that lot is also conforming to the zoning requirements. He said by taking the properties and adjusting the boundaries, we are not causing that fourth lot to become non-conforming. Ms. Patrick clarified the parent lot, from what she sees it is not non-conforming; it is conforming. Mr. King asked if there are two non-conforming lots that are affected here. Ms. Patrick said she sees only one non-conforming lot.

Mr. King asked about the history; how did we get here. Ms. Patrick said the history is in the staff report, saying the gravel pit was in existence pre-zoning. She said in 2011 there was a subdivision to separate a 3 acre building lot, which is 6 Theresa Lane. She said that approval was attached to the memo you received. Ms. Patrick said that is the only thing that has happened recently. She said there were a few other subdivisions a long time ago when Skyview Drive was being creating; saying back then you could give an acre lot to your children without being considered a subdivision, so a lot of that happened.

Mr. King clarified that is where those 1 acre lots came from, they were family lots. He said that's how we got here, that we have what are now non-conforming lots because they were under the old system and they were grandfathered as the zoning was changed. He stated we have a non-conforming lot that is 1 acre and the proposed size is 2 +/- acres, which is still non-conforming, but less so.

Mr. Flynn asked for an explanation of the main driveways for each of the parcels. Ms. Aube indicated the driveways on the photo. She and Mr. Aube discussed the driveways for each parcel. Mr. Flynn clarified they would have an access easement over the 6.7 acre lot. Ms. Aube agreed. Mr. Flynn asked about the one in the corner of Theresa Lane and Lee River Road, whether they access off of Theresa Lane or Lee River Road. Ms. Aube stated Sean Superneau accesses using Theresa Lane. Mr. West stated there is ledge there. The DRB members and the applicants discussed the access locations further.

Mr. Aube discussed an old road through the area that the trucks used to use. Mr. Flynn clarified that if you put recommendations on that, you would lose a building lot in the future. Mr. Aube stated their plan is that if anybody built they would have to come out through along the boundary line, saying there is an existing gravel pit road that the trucks use now. He said Bobby and Diane's land will follow that right up around and meet up adjacent to his and Holly's. He stated the land is being planned to stay open, no development whatsoever.

Mr. Flynn asked if they plan on having deeded restrictions, or if that is the goal. Ms. Aube stated the land they acquire will not be developed by anyone. Mr. Flynn asked about the large piece of property, the remaining lot. Ms. Aube said that will be sold. Mr. Aube noted there is another easement entrance off of Skyview Drive, which is up near where Dale Bishop used to live. He and the DRB members discussed the location. Mr. Flynn asked if due north of the remaining gravel pit there is a high knob. Mr. Aube said it is a rolling hill, discussing a location that is similar to the highest point. Mr. Flynn asked if it is all gravel. Mr. Aube said it is mostly all sand now; all the good gravel has been taken out. Ms. Patrick displayed the 2013 ortho photo, showing the contours.

Mr. West said the staff notes show that the application showed the remaining lot at 30 acres, but it is actually 41.44 acres. Ms. Patrick said she thinks there was an error on the drawing submitted. Mr. West said the main lot includes whatever is left remaining of the gravel pit. Ms. Patrick said some of the things we were discussing in general discussion, this lot that Bobby and Diane Superneau would acquire has two access points, from Theresa Lane and also from Lee River Road. Mr. Aube said that is not really a driveway, asking Bobby if he would consider that a driveway. Mr. Superneau said no, that road was put in so his father-in-law when he had his vegetable garden there.

Ms. Patrick said it looks like a road, so that would possibly be a condition the DRB would want to consider. She stated we do have a one curb cut rule. Ms. Superneau said it is not a road and when they sell the house it will be grassed over. She stated nobody is going to be going up that back side. Ms. Patrick said something else that was discussed with Ms. Aube is that when a road goes through a lot, it is like a natural subdivision; but when it is a private drive like this, or a private road, that natural subdivision doesn't happen. She said they could not naturally subdivide that parcel. Mr. Aube clarified that the 6.7 acre parcel could not be subdivided naturally.

Ms. Patrick agreed, saying although it is big enough, if it didn't have a driveway going through it they could possibly subdivide it; but they wouldn't be able to in that situation. Mr. West clarified without relocating the driveway. Mr. Aube asked if they could do that if they ever decided to. Mr. West said they would have to relocate the driveway. Ms. Patrick agreed they could if the private road was in a different location. Mr. Aube and Ms. Patrick discussed the possibility of subdivision further.

Mr. King stated the real point is that the regulations ask us to not create a lot that has an access problem. He said we don't want to create a back lot with no access. He said if we are creating a lot

in this zone that is more than 6 acres it makes sense to think about the future state of it, though you don't have to. Mr. Aube stated the intentions are not to develop it; he is just discussing possibilities. Mr. King agreed, saying it doesn't matter what the intentions are; the rule is that if it is 6 acres, it could theoretically be subdivided and it makes sense to lay out the lots if that is the case.

Ms. Patrick said if it is subdivided the way it is proposed on the sketch plan, with 3 acres on either side of the driveway and it becomes a public road, then they could subdivide it. She said as it is proposed, they would not be able to. Mr. King clarified because the other is a back land lot. Ms. Patrick said she discussed with the Town attorney that it is because it is not a natural subdivision. She discussed the rationale, noting the difference between a Town and a private road. Mr. King clarified they would have to do a subdivision. Ms. Patrick said she doesn't think so, that is the message she got from the Town attorney. She said she could check again in case she misunderstood.

Mr. King stated it is something we will need to understand before final review because one of the criteria is to understand what the future status of the lots that are created. He said we will need to understand that. He clarified with a Town road running through a property there are naturally two lots already and they could be naturally conveyed. Mr. King stated in this case it is a 6 acre lot and there is no natural subdivision like that, you would have to subdivide it he thinks. He said that is what we need to understand.

Mr. West agreed that the road is not a natural subdivision because it is a driveway; however, if the owner wanted to go in and have a line drawn through the subdivision process. Mr. King agreed, saying they have to go through the process. He stated they would not be able to separately convey the 3 acres on the other side of the driveway just because the driveway is there. Ms. Patrick clarified it is a private road up until where the three forks come off.

Mr. West asked how many properties are using Theresa Lane right now. Mr. Aube stated three, indicating them on the photos. Mr. King noted the gravel pit connects to the main road through there. Mr. Aube stated this road is no longer used for the gravel pit. He indicated the access for the gravel pit, noting the entrance to it is off of Theresa Lane. Mr. King asked if Theresa Lane is a Town road. Ms. Patrick stated it is a private road. Mr. King said the reason we are pounding at this is the rules about what lots have frontage where is what you need to be worrying about and making sure that it conforms with those rules. Ms. Patrick said something else discussed was keeping Theresa Lane a private road, but then making a driveway sooner. Mr. King clarified that you can serve three parcels off a driveway.

Mr. Flynn asked if a Planned Unit Development (PUD) is allowed. Ms. Patrick said right now it is 57.54 acres and 41 acres would be leftover. She said she doesn't know all of the environmental constraints on this lot, but it seems like it would be permitted. Mr. Flynn said we have a gravel pit, so septic capacity would be good. He stated it is a large parcel with great septic capacity, PUD capabilities and so on, making sure that the lots are divided up with that in mind to get the most out of the next run is a favorable though to put into. He said addressing septic capacity and looking at the future of the leftover land is something they might want to consider.

Mr. Flynn said especially since there is a 60' access reserved off of Skyview, there are loop capabilities and everything. He said it is something to consider before you start giving a little bit here and a little bit there. Mr. Aube said these lots are going to happen. Ms. Aube stated there are seven of us involved, so some of them decided they didn't want any land, that they would rather have the

money. She said three of them decided they would like some of the land and are trying to keep a good sized section. Mr. Flynn said they could look at getting the most of it too for the next round. He said it is a gravel pit, it is in Jericho, and people want to build here. Mr. Aube said they don't want to see it built on. Mr. West said making it a PUD and putting it in conservation is an option, then no one will build there. Ms. Aube said then the others wouldn't get their money. Mr. Flynn said if you change the lot configuration sometimes 20' to 30' to maximize certain ideas, you might not lose out on another unit or something. Mr. West encouraged them to look at the remaining lot and how it could be used in the future.

Mr. King said the last thing we can give you as advice to develop your plan is that Section 11.9 relates to site layout in the regulations. He said there is not a lot of new development here, it is mostly relaying out the lots, but those are the criteria. He stated what it says in the plan description of the Rural Residential District that you are in, is really what you are driving at. Mr. West said the staff notes discuss a maintenance agreement between parties. Ms. Patrick said if they decide to shorten Theresa Lane that is what they want to do. She said in terms of a maintenance agreement for this part of the driveway is something they may want to consider. She said it seems like no one knows what is going to happen.

Mr. Aube asked if that is something the Town wants them to do. Mr. King said generally when there is a shared driveway we like to have a written agreement for maintenance, discussing what should be included. He said the reason is that it is the legal access to the lots. He stated as part of doing the new deeds for the new plats, you usually would file that maintenance agreement as part of the process. Mr. Aube asked if that has to be signed and notarized. Mr. King said in the past we have just asked that there be one. Ms. Patrick stated it needs to be present by final review and recorded in the Town Land Records. Mr. King said it can be real simple, but it needs to be part of the proposal. Ms. Patrick discussed different approaches to the maintenance agreement.

3. A request to the DRB by Phylvin Acres, LLC for a sketch plan review of a major subdivision at 579 Browns Trace Road. This parcel is located in the Rural Residential, Agriculture, and Forestry Zoning Districts.

Applicant's Presentation

Mr. Grover stated they are proposing a boundary line adjustment with no new lots created and no development. He indicated the proposed lot to be conveyed from the Phylvin Acres lot that is about 90 acres to the Keating's who own quite a bit of acreage as well. He stated they reduced the parent lot from 90 acres to roughly 73.5 acres. Mr. Grover said it is an isolated back lot, isolated portion of the parent lot, which is in the Agricultural and Forestry Zoning Districts. He said it is just a conveyance of property; no creation of new lots and no proposed development.

Board Questions

Mr. Flynn asked him to show the intended new outline of the Phylvin Acres. Mr. Grover indicated it on the plan. Mr. Flynn also asked to show the outline of the new lot for Keating parcel. Mr. Grover indicated, noting he doesn't know if they own property in the next town. Mr. King asked about the location, noting the houses he knows in the area. Ms. Patrick indicated the location of Keating's house. Those present discussed the location further. Mr. Flynn asked if Larry plans on doing a survey to tighten it up a little bit. Mr. Grover agreed. Mr. West clarified that the square lot would be conveyed. Mr. Grover agreed.

Mr. King said it looks like Keating's don't have road frontage. Someone indicated the location of Keating's home, saying that this lot provides better access to their land. Mr. Grover noted this also helps with their forestry practices. Mr. King said the present land use in that block changing over, all in that back forest; the big lot is accessed off Milo White Road. Someone agreed. Mr. West said we are not creating any non-conforming anything. Mr. King said Keating's owns two contiguous lots, but they are separately conveyed.

Ms. Patrick said they are substantially within the Natural Resources Overlay District, which is limited in the uses. Mr. King said much of the land that would be conveyed and much of what they own already. He asked why it is in that category, whether it is due to the steep slopes. Ms. Patrick said she doesn't know. Mr. King asked if there are any other concerns or criteria. Ms. Patrick said this probably won't be relevant, but the permitted uses here are limited to wildlife management, passive recreation, and selective timber cutting. Mr. West said most importantly, the green striped area, which is the majority of that, is restricted to wildlife habitat. He said it is really restricted. Mr. King stated it is an important habitat block and if it helps keep it protected it is actually a good thing. He said it is already protected by the regulations. He said there is no other guidance we can provide.

Ms. Patrick added it was written this was a major subdivision because it is the fourth subdivided parcel in the past 120 months, but because no new lot is being created here it is not considered; just a boundary adjustment that is large. Mr. King said the only other question he has is that the land that is conveyed might change the layout of the new land in such a way it could be subdivided differently in the future, but it is already in the Natural Resources Overlay District, so it is really not relevant. Ms. Patrick stated this lot is very interesting based on how the zoning is with the different districts. Mr. King said because close to road is Rural Residential; though the part that is affected is outside the road corridor. Ms. Patrick said these are both 10 acre zoning, with fairly similar uses. Mr. King said the piece that is being conveyed isn't changing; both parcels, the parent and the new one are all in the same zoning districts, so it doesn't change anything substantial that way either. He said he doesn't see a problem.

Mr. Grover said the Phylvin Acres folks do intend to do some subdividing on the parent lot in the future. He said this area up here is roughly 9 acres and may be split into three lots at some point. He said possibly the remaining back area might be subdivided, but they are really in the early stages, getting some wetland determinations and test pits. Mr. King clarified that there was activity on this subdivision recently, in the last 10 years. He said he remembers seeing something about another lot changed in there and there was an access issue in the corner. Ms. Patrick asked if there is a river right through here. Mr. Grover agreed. Ms. Patrick said if they were going to subdivide back there it would be an interesting access. Mr. King said it was access issue with wetland impact. Mr. Grover stated that is why they are having wetlands looked at.

Mr. Farrell said what Dean referred to as about 9 acres in the 3 acre zoning, there is about a 50' right of way that goes up towards that land that will be given to Keating's. He said in order to get 9 acres that utilizes that 50', there are small increments of that Browns Trace lot that slide into two other zones, noting there are three zones on that lot. He asked how that is going to affect what they do. Mr. West asked how much of it they need to have to create the 3 acre lots there. Mr. Grover stated it is pretty wet over here, so it would be back in this area. He said you are speaking to having access through here. Mr. Farrell said in order to make a total of 9 acres, they would need that strip. He said if they drew a line across the top of that strip it would make it 9 acres, but would that put them in a 10 acre zone, with a non-conforming lot.

Mr. King stated the rules are clear on a piece of land that is in both zones. He said the lot that you are pointing at, part of that is in 10 acre zoning. Mr. Farrell said it runs into the forest and agriculture. The DRB members discussed how the rules apply when a parcel is in more than one zone. Mr. Farrell said 8 out of the 9 acres would be in the 3 acre zoning. Mr. King said he doesn't think it is the majority, but the least restrictive. Mr. Grover clarified that even though a portion of this lot has 10 acre restriction, the majority rules. Mr. King stated it is not a majority, saying they should look at the regulations. He said it has to do with what the restrictions are and the more restrictive or less restrictive side of the line.

Ms. Patrick referred to Section 3.4.3, saying it speaks to frontage and setbacks. She read from the section in the regulations. Mr. King said where the building envelopes are and the configuration of the lots is important. He said that is not what we are talking about tonight. Ms. Patrick discussed the matter further. Mr. Farrell said in their minds they can look at that as a 9 acre lot with a potential for a three lot subdivision. Mr. King stated this isn't a sketch plan for that, so he doesn't know the answer to the question. He said they would have to look carefully at the rules for the lot layout and lots that straddle the two districts.

4. Minutes from August 27, 2015.

On a motion by Mr. York, seconded by Mr. Flynn, the DRB unanimously approved the minutes from August 27, 2015 as written.

5. Minutes from September 24, 2015.

On a motion by Mr. Flynn, seconded by Mr. York, the DRB unanimously approved the minutes from September 24, 2015 as written; Mr. West abstained.

The Development Review Board entered deliberative session at 8:37 p.m.